

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

ARCH INSURANCE COMPANY

Plaintiff

VS

09-G-7607

DOUGLAS ASHPHALT COMPANY  
JOEL SPIVEY  
KYLE SPIVEY

Defendant

APPLIED TECHNICAL SERIVCES INC

**NON-JURY TRIAL NOTICE**

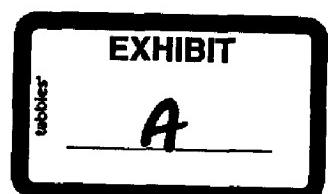
Please take notice that the above styled case will appear on the NONJURY TRIAL Calendar on the **07-DEC-2009** at 01:30 PM at the State Court of Cobb County in COURTROOM 4B, 4TH FLOOR of the State Court Building, 12 East Park Square, Marietta, Georgia 30090-9630. If you have any questions please call the calendar clerk at .

This SEP-29-2009

Calendar Clerk

CC:

DAVID M ABERCROMBIE  
3340 PEACHTREE RD NE STE 2100  
ATLANTA, GA 30326-1084



IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA

ARCH INSURANCE COMPANY,

Plaintiff,

vs.

DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,

Defendants,

and

APPLIED TECHNICAL  
SERVICES, INC.,

Garnishee.

GARNISHMENT  
NO.: 09-G-7607

**NOTICE TO JUDGMENT DEBTOR DOUGLAS ASPHALT COMPANY**

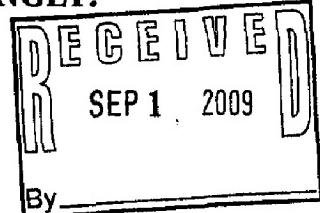
TO: **CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**RECEIPT # 7009 1410 0000 2123 6228**

**Douglas Asphalt Company (via regular and certified mail)**  
**101 N. Peterson Ave., Suite 201**  
**Douglas, Georgia 31533**

**PLEASE TAKE NOTICE** that on or about September 14, 2009, an Affidavit of Garnishment was filed in the State Court of Cobb County, State of Georgia, and a Summons of Garnishment was issued and served upon the above-named Garnishee at the address indicated. Defendants' copy of the Summons and Affidavit for Garnishment are enclosed herewith and hereby served upon Defendant.

**PLEASE BE ADVISED AND GOVERN YOURSELF ACCORDINGLY.**



This 25<sup>th</sup> day of September, 2009.

Christina Craddock

Christina Craddock

Georgia Bar No. 192785

*Counsel for Arch Insurance Company*

**BOVIS, KYLE & BURCH, LLC**

200 Ashford Center North

Suite 500

Atlanta, Georgia 30338

770.391.9100

678.338.3912 Direct Line

770.668.0878 Facsimile

e-mail: cac@boviskyle.net

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

## **ARCH INSURANCE COMPANY,**

**Plaintiff,**

vs.

**DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,**

**Defendants,**

and

**APPLIED TECHNICAL  
SERVICES, INC.,**

## Garnishee.

**GARNISHMENT  
NO.: 09-G-7607**

**CERTIFICATE OF SERVICE**

This is to certify that I have this date served the within and foregoing ***Notice to Judgment Debtor Douglas Asphalt Company, Summons of Garnishment and Affidavit of Garnishment*** upon Judgment Debtor's counsel by placing copies of the same in the United States mail in an envelope with adequate postage affixed thereto and addressed as follows:

Dorian Britt, Esq.  
Savage, Turner, Pinson & Karsman  
304 East Bay Street  
Savannah, Georgia 31401

Kenneth E. Futch, Esq.  
The Futch Law Firm  
110 Screven Avenue  
Waycross, Georgia 31501

Applied Technical Services, Inc.  
c/o James F. Cook, Jr., Esq.  
David M. Abercrombie, Esq.  
Goodman McGuffey Lindsey & Johnson, LLP  
3340 Peachtree Road, NE  
Suite 2100  
Atlanta, Georgia 30326-1084

This 25<sup>th</sup> day of September, 2009.

Christina Craddock  
Christina Craddock

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North, Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
770.668.0878 Facsimile

8229 E2T2 0000 0TH1 6002	
SENDER: COMPLETE THIS SECTION	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	
COMPLETE THIS SECTION ON DELIVERY	
<p>A. Signature: <i>X N. Atkinson</i></p> <p><input type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p>	
B. Received by / Printed Name: <i>N. Atkinson</i>	C. Date of Delivery: <i>9/29/09</i>
<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: _____</p>	
<p>3. Service Type:</p> <p><input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered      <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p>	
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number: <i>7009 1410 0000 2123 6228</i> (Transfer from service label)</p>	
<p>PS Form 3811, February 2004      Domestic Return Receipt      102595 (2)</p>	

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

## **ARCH INSURANCE COMPANY,**

**Plaintiff,**

VS.

**DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY.**

**Defendants,**

and

## **APPLIED TECHNICAL SERVICES, INC.**

Garnishee.

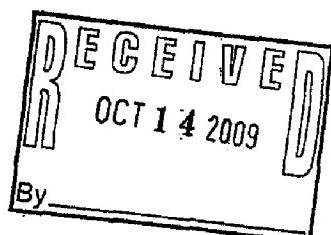
**GARNISHMENT  
NO.: 09-G-7607**

TO: CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**RECEIPT # 7008 3230 0001 9750 5143**  
**Kyle Spivey (via regular and certified mail)**  
**770 Green Willow Dr.**  
**Douglas, Georgia 31535**

**PLEASE TAKE NOTICE** that on or about September 14, 2009, an Affidavit of Garnishment was filed in the State Court of Cobb County, State of Georgia, and a Summons of Garnishment was issued and served upon the above-named Garnishee at the address indicated. Defendants' copy of the Summons and Affidavit for Garnishment are enclosed herewith and hereby served upon Defendant.

**PLEASE BE ADVISED AND GOVERN YOURSELF ACCORDINGLY.**



This 25<sup>th</sup> day of September, 2009.



Christina Craddock  
Georgia Bar No. 192785  
*Counsel for Arch Insurance Company*

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North  
Suite 500  
Atlanta, Georgia 30338  
770.391.9100  
678.338.3912 Direct Line  
770.668.0878 Facsimile  
e-mail: cac@boviskyle.net

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

## **ARCH INSURANCE COMPANY,**

**Plaintiff,**

**VS.**

**DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,**

## **Defendants.**

and

## **APPLIED TECHNICAL SERVICES, INC.**

## Garnishee.

**GARNISHMENT  
NO.: 09-G-7607**

## **CERTIFICATE OF SERVICE**

This is to certify that I have this date served the within and foregoing ***Notice to Judgment Debtor Kyle Spivey, Summons of Garnishment and Affidavit of Garnishment*** upon Judgment Debtor's counsel by placing copies of the same in the United States mail in an envelope with adequate postage affixed thereto and addressed as follows:

Dorian Britt, Esq.  
Savage, Turner, Pinson & Karsman  
304 East Bay Street  
Savannah, Georgia 31401

Kenneth E. Futch, Esq.  
The Futch Law Firm  
110 Screven Avenue  
Waycross, Georgia 31501

Applied Technical Services, Inc.  
c/o James F. Cook, Jr., Esq.  
David M. Abercrombie, Esq.  
Goodman McGuffey Lindsey & Johnson, LLP  
3340 Peachtree Road, NE  
Suite 2100  
Atlanta, Georgia 30326-1084

This 25<sup>th</sup> day of September, 2009.

Christina Craddock  
Christina Craddock

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North, Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
770.668.0878 Facsimile

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <i>Kyle Spivey</i></p> <p><input checked="" type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)      C. Date of Delivery <i>Spivey, Kyle</i>      <i>10-7-05</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p><i>Kyle Spivey 770 Green Willow Dr. Douglas, GA 31535</i></p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered      <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number: <b>7008 3230 0001 9750 5143</b> (Transfer from service label)</p>		<p>PS Form 3811, February 2004      Domestic Return Receipt      102595-02-M-164</p>	

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

**ARCH INSURANCE COMPANY,**

**Plaintiff,**

**vs.**

**DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,**

**Defendants,**

**and**

**APPLIED TECHNICAL  
SERVICES, INC.,**

**Garnishee.**

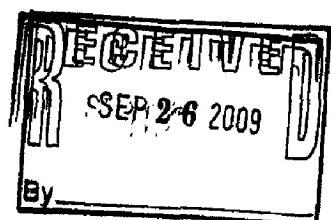
**GARNISHMENT  
NO.: 09-G-7607**

**NOTICE TO JUDGMENT DEBTOR JOEL SPIVEY**

**RECEIPT # 7009 1410 0000 2123 6211**  
**Joel Spivey (via regular and certified mail)**  
**12331 Hwy. 32W**  
**Ambrose, Georgia 31512**

**PLEASE TAKE NOTICE** that on or about September 14, 2009, an Affidavit of Garnishment was filed in the State Court of Cobb County, State of Georgia, and a Summons of Garnishment was issued and served upon the above-named Garnishee at the address indicated. Defendants' copy of the Summons and Affidavit for Garnishment are enclosed herewith and hereby served upon Defendant.

**PLEASE BE ADVISED AND GOVERN YOURSELF ACCORDINGLY.**



This 25<sup>th</sup> day of September, 2009.



Christina Craddock  
Georgia Bar No. 192785  
*Counsel for Arch Insurance Company*

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North  
Suite 500  
Atlanta, Georgia 30338  
770.391.9100  
678.338.3912 Direct Line  
770.668.0878 Facsimile  
e-mail: cac@boviskyle.net

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

## **CERTIFICATE OF SERVICE**

This is to certify that I have this date served the within and foregoing ***Notice to Judgment Debtor Joel Spivey, Summons of Garnishment and Affidavit of Garnishment*** upon Judgment Debtor's counsel by placing copies of the same in the United States mail in an envelope with adequate postage affixed thereto and addressed as follows:

Dorian Britt, Esq.  
Savage, Turner, Pinson & Karsman  
304 East Bay Street  
Savannah, Georgia 31401

Kenneth E. Futch, Esq.  
The Futch Law Firm  
110 Screven Avenue  
Waycross, Georgia 31501

Applied Technical Services, Inc.  
c/o James F. Cook, Jr., Esq.  
David M. Abercrombie, Esq.

**Goodman McGuffey Lindsey & Johnson, LLP**  
3340 Peachtree Road, NE  
Suite 2100  
Atlanta, Georgia 30326-1084

This 25<sup>th</sup> day of September, 2009.



Christina Craddock

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North, Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
770.668.0878 Facsimile

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IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA

**ARCH INSURANCE COMPANY,**

§

**Plaintiff,**

§

**vs.**

§

**DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,**

§

**GARNISHMENT  
NO.: 09-G-7607**

**Defendants,**

§

**and**

§

**APPLIED TECHNICAL  
SERVICES, INC.,**

§

**Garnishee.**

§

**PLAINTIFF'S OBJECTION TO TRAVERSE TO AFFIDAVIT AND SUMMONS  
OF GARNISHMENT FILED BY GARNISHEE**

**COMES NOW** Arch Insurance Company ("Plaintiff"), by and through its counsel of record, and respectfully files this its Objection to the Traverse to Affidavit and Summons of Garnishment filed by the Garnishee Applied Technical Services, Inc. (Garnishee"), showing the Court as follows:

1.

There is no authority in the Official Code of Georgia Annotated for the filing of a traverse by a Garnishee.

2.

A judgment against the Garnishee Applied Technical Services, Inc. is not required.

3.

Pursuant to O.C.G.A. §18-4-20(b), “[all] debts owed by the garnishee to the defendant at the time of service of the summons of garnishment upon the garnishee and all debts accruing from the garnishee to the defendant from the date of service to the date of the garnishee's answer shall be subject to process of garnishment; and no payment made by the garnishee to the defendant or to his order, or by any arrangement between the defendant and the garnishee, after the date of the service of the summons of garnishment upon the garnishee, shall defeat the lien of such garnishment.”

4.

The garnishee may file its answer no sooner than 30 days and no later than 45 days after the service of the summons. O.C.G.A. §18-4-62.

5.

Any and all debts owed by Garnishee to Douglas Asphalt Company, Joel Spivey or Kyle Spivey between the time of the service of the summons of garnishment upon Garnishee and the date of any timely answer filed by Garnishee, at least 30 days after the date of service of the summons upon Garnishee and no later than 45 days after the date of service of the summons upon Garnishee, are subject to this garnishment and any payment made by Garnishee to Douglas Asphalt Company, Joel Spivey or Kyle Spivey or on their behalf or any arrangements or settlements made between Douglas Asphalt Company, Joel Spivey or Kyle Spivey and Garnishee after the service of the garnishment upon Garnishee shall not defeat the lien of this garnishment. *Lee & Anderson v. Louisville & N.R. Co., et. al.*, 2 Ga. App. 337, 58 S.E. 520 (1907).

**WHEREFORE**, Plaintiff Arch Insurance Company respectfully prays that this Honorable Court consider this Objection to Garnishee's Traverse, dismiss the Traverse

to Affidavit and Summons of Garnishment filed by the Garnishee Applied Technical Services, Inc., cast all costs upon Garnishee, and grant Plaintiff such other and further relief as the Court deems mete and proper in these premises.

Respectfully submitted, this 25<sup>th</sup> day of September, 2009.

Christina Craddock  
Christina Craddock  
Georgia Bar No. 192785

Counsel for Arch Insurance Company

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North  
Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
678.338.3912 Direct Line  
770.668.0878 Facsimile  
e-mail: cac@boviskyle.net

IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA

ARCH INSURANCE COMPANY,

Plaintiff,

vs.

DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,

Defendants,

and

APPLIED TECHNICAL  
SERVICES, INC.,

Garnishee.

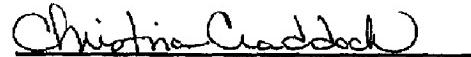
GARNISHMENT  
NO.: 09-G-7607

CERTIFICATE OF SERVICE

This is to certify that I have this date served the within and foregoing *Plaintiff's Objection to Traverse to Affidavit and Summons of Garnishment filed by Garnishee* upon Garnishee's counsel by placing a copy of the same in the United States mail in an envelope with adequate postage affixed thereto and addressed as follows:

James F. Cook, Jr., Esq.  
David M. Abercrombie, Esq.  
Goodman McGuffey Lindsey & Johnson, LLP  
3340 Peachtree Road, NE  
Suite 2100  
Atlanta, Georgia 30326-1084

This 25<sup>th</sup> day of September, 2009.

  
Christina Craddock

BOVIS, KYLE & BURCH, LLC  
200 Ashford Center North, Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
770.668.0878 Facsimile

**IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA**

## **ARCH INSURANCE COMPANY,**

**Plaintiff,**

VS.

**DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,**

## **Defendants,**

and

## **APPLIED TECHNICAL SERVICES, INC.,**

Garnishee.

**GARNISHMENT  
NO.: 09-G-7607**

**PLAINTIFF'S TRAVERSE OF ANSWER OF GARNISHEE**

**COMES NOW** Arch Insurance Company ("Plaintiff"), by and through its counsel of record, and respectfully traverses the Answer of Garnishee filed by Applied Technical Services, Inc. ("Garnishee") showing that the Garnishee's Answer is insufficient, untimely and/or legally incorrect.

**WHEREFORE**, Plaintiff Arch Insurance Company respectfully prays that this Honorable Court grant this traverse, cast all costs upon Garnishee, order Garnishee to answer no earlier than the 30<sup>th</sup> day and no later than the 45<sup>th</sup> day after service of the garnishment summons with respect to any obligation owed to either judgment debtor, and grant Plaintiff such other and further relief as the Court deems mete and proper in these premises.

Respectfully submitted, this 25<sup>th</sup> day of September, 2009.

Christina Craddock

Christina Craddock  
Georgia Bar No. 192785

Counsel for Arch Insurance Company

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North  
Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
678.338.3912 Direct Line  
770.668.0878 Facsimile  
e-mail: cac@boviskyle.net

IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA

ARCH INSURANCE COMPANY,

Plaintiff,

vs.

DOUGLAS ASPHALT COMPANY,  
JOEL SPIVEY and KYLE SPIVEY,

Defendants,

and

APPLIED TECHNICAL  
SERVICES, INC.,

Garnishee.

GARNISHMENT  
NO.: 09-G-7607

CERTIFICATE OF SERVICE

This is to certify that I have this date served the within and foregoing *Plaintiff's Traverse of Answer of Garnishee* upon Garnishee's counsel by placing a copy of the same in the United States mail in an envelope with adequate postage affixed thereto and addressed as follows:

James F. Cook, Jr., Esq.  
David M. Abercrombie, Esq.  
Goodman McGuffey Lindsey & Johnson, LLP  
3340 Peachtree Road, NE  
Suite 2100  
Atlanta, Georgia 30326-1084

This 25<sup>th</sup> day of September, 2009.

Christina Craddock  
Christina Craddock

BOVIS, KYLE & BURCH, LLC  
200 Ashford Center North, Suite 500  
Atlanta, Georgia 30338-2668  
770.391.9100  
770.668.0878 Facsimile

559092

State Court **Attorney's Address**

Christina Craddock  
 Bovis, Kyle & Burch, LLC  
 200 Ashford Center North, Suite 500  
 Atlanta, Georgia 30338

**GEORGIA, COBB COUNTY****\* Arch Insurance Company****Plaintiff****VS.****Douglas Asphalt Company, Joel Spivey  
and Kyle Spivey****Defendant****Name and Address of Party to be Served**

Applied Technical Services, Inc.  
 Jim Hills  
 1049 Triad Court  
 Marietta, GA 30062

**Applied Technical Services, Inc.,  
Garnishee****SHERIFF'S ENTRY OF SERVICE****PERSONAL**

I have this day served ..... personally with a copy  
of the within action and summons.

**NOTORIOUS**

I have this day served ..... by leaving  
a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of ..... described as follows  
age, about ..... years; weight, about ..... pounds; height, about ..... feet and ..... inches, domiciled  
at the residence of defendant.

**CORPORATION**

Served APPLIED TECHNICAL SERVICES, INC. ..... a corporation  
 by leaving a copy of the within action and summons with ..... DEI DRA B AUGH .....  
in charge of the office and place of doing business of said Corporation in this County.

**MAIL & MAIL**

I have this day served the above affidavit and summons on the defendant(s)/Party by posting a copy of the same to the  
door of the premises designated in said affidavit and on the same day of such posting by depositing a true copy of same  
 in the United States Mail, First Class in an envelope properly addressed to the defendant(s)/Party at the address shown in  
said summons, with adequate postage affixed thereon containing notice to the defendant(s)/Party to answer said  
summons at the place stated in the summons.

**NON EST**

Diligent search made and .....  
not to be found in the jurisdiction of this Court.

**THE DEFENDANT/PARTY IS REQUIRED TO:**

answer a Proceeding Against Tenant Holding Over on or before the ..... day of .....  
 20 ..... at the hour and place stated in the summons.

This 24 day of Sept., 2009.

M. McFall 07003  
DEPUTY

COBB COUNTY, GEORGIA

IN THE STATE COURT OF COBB COUNTY STATE OF GEORGIA  ARCH INSURANCE COMPANY, Plaintiff, v.  DOUGLAS ASPHALT COMPANY, JOEL SPIVEY, KYLE SPIVEY, Defendants, v.  APPLIED TECHNICAL SERVICES, INC., Garnishee.	COBB COUNTY, GA FILED IN OFFICE  2009 SEP 21 AM 10:41  DIANE B. WEBB STATE COURT CLERK-14  Civil Action File No.: 09-G-7607
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**ANSWER OF GARNISHEE**

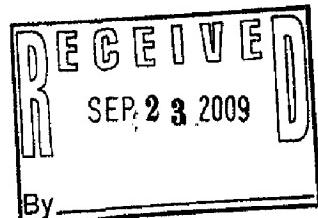
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1.

At the time of service or from the time of service to the time of this answer, Garnishee APPLIED TECHNICAL SERVICES, INC. does not have in its possession any property or other assets, wages, etc. of Defendants that might be subject to this garnishment action.

2.

Garnishee further states that no valid judgment exists against Garnishee Applied Technical Services, Inc., as an unaffiliated corporation, that would give rise to any property or other assets of Defendants that might be subject to this garnishment action.

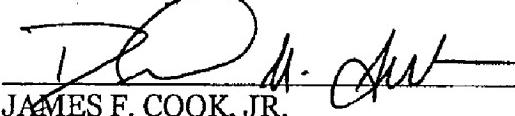


This 17<sup>th</sup> day of September, 2009.

Respectfully submitted,

GOODMAN MCGUFFEY LINDSEY & JOHNSON, LLP  
Attorneys for Applied Technical Services, Inc.

BY:

  
JAMES F. COOK, JR.  
Georgia State Bar No.: 184250  
DAVID M. ABERCROMBIE  
Georgia State Bar No.: 000394

GOODMAN MCGUFFEY LINDSEY & JOHNSON, LLP  
3340 Peachtree Road, NE, Suite 2100  
Atlanta, GA 30326-1084  
Phone: (404) 264-1500  
Fax: (404) 264-1737

IN THE STATE COURT OF COBB COUNTY

STATE OF GEORGIA

ARCH INSURANCE COMPANY,

Plaintiff,

v.

DOUGLAS ASPHALT COMPANY, JOEL  
SPIVEY, KYLE SPIVEY,

Defendants,

v.

APPLIED TECHNICAL SERVICES, INC.,

Garnishee.

Civil Action  
File No.: 09-G-7607

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CERTIFICATE OF SERVICE

---

This is to certify that I have this day served the opposing party or counsel for the opposing party in the foregoing matter with a copy of **ANSWER OF GARNISHEE**, by depositing a copy of same in the United States Mail, postage prepaid, as follows:

David Allen Harris, Esq.  
Bovis, Kyle & Burch, LLC  
200 Ashford Center North, Suite 500  
Atlanta, GA 30338-2668

This 17th day of September, 2009.

By:

  
\_\_\_\_\_  
DAVID M. ABERCROMBIE  
Georgia State Bar No.: 000394

COBB COUNTY, GA  
IN THE STATE COURT OF COBB COUNTY FILED IN OFFICE

STATE OF GEORGIA

2009 SEP 21 AM 10:41

ARCH INSURANCE COMPANY,

DIANE B. WEBB  
STATE COURT CLERK-14

Plaintiff,

Civil Action  
File No.: 09-G-7607

v.

DOUGLAS ASPHALT COMPANY, JOEL  
SPIVEY, KYLE SPIVEY,

Defendants,

v.

APPLIED TECHNICAL SERVICES, INC.,

Garnishee.

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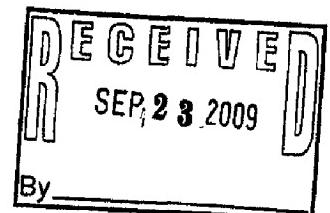
**TRAVERSE TO AFFIDAVIT AND SUMMONS OF GARNISHMENT**

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COMES NOW, Garnishee APPLIED TECHNICAL SERVICES, INC., by and through its undersigned counsel of record, and hereby states that the Affidavit and Summons of Garnishment, filed September 14, 2009, as against Applied Technical Services, Inc., is untrue or legally insufficient.

There is no valid or legal judgment against Applied Technical Services, Inc., a corporation, which would give rise to any property or other assets of Defendants that might be subject to this garnishment action. In that connection, Applied Technical Services, Inc. is a corporation, unaffiliated with Defendants, and is not in possession of any property or other assets of same.

Accordingly, the Affidavit and Summons of Garnishment against Applied Technical Services, Inc. in this action is legally insufficient and should be DISMISSED, as a matter of law.

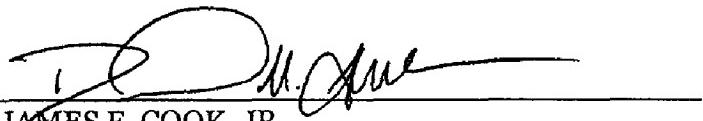


This 17<sup>th</sup> day of September, 2009.

Respectfully submitted,

GOODMAN MCGUFFEY LINDSEY & JOHNSON, LLP  
Attorneys for Applied Technical Services, Inc.

By:

  
JAMES F. COOK, JR.  
Georgia State Bar No.: 184250  
DAVID M. ABERCROMBIE  
Georgia State Bar No.: 000394

GOODMAN MCGUFFEY LINDSEY & JOHNSON, LLP  
3340 Peachtree Road, NE, Suite 2100  
Atlanta, GA 30326-1084  
Phone: (404) 264-1500  
Fax: (404) 264-1737

IN THE STATE COURT OF COBB COUNTY  
STATE OF GEORGIA

ARCH INSURANCE COMPANY,

Plaintiff,

v.

DOUGLAS ASPHALT COMPANY, JOEL  
SPIVEY, KYLE SPIVEY,

Defendants,

v.

APPLIED TECHNICAL SERVICES, INC.,

Garnishee.

Civil Action  
File No.: 09-G-7607

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CERTIFICATE OF SERVICE

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This is to certify that I have this day served the opposing party or counsel for the opposing party in the foregoing matter with a copy of **TRAVERSE TO AFFIDAVIT OF GARNISHMENT**, by depositing a copy of same in the United States Mail, postage prepaid, as follows:

David Allen Harris, Esq.  
Bovis, Kyle & Burch, LLC  
200 Ashford Center North, Suite 500  
Atlanta, GA 30338-2668

This 17th day of September, 2009.

By:

  
DAVID M. ABERCROMBIE  
Georgia State Bar No.: 000394

## IN THE STATE COURT OF COBB COUNTY

## STATE OF GEORGIA

Arch Insurance Company

One Liberty Plaza, 53rd Floor

New York, NY 10006

Plaintiff (Name &amp; Address)

VS

Douglas Asphalt Company [101 N. Peterson Ave., Ste. 201, Douglas, GA 31533]

Joel Spivey [12331 Hwy. 32W, Ambrose, GA 31512]

Kyle Spivey [770 Green Willow Dr., Douglas, GA 31535]

Defendant (Name &amp; Address)

Applied Technical Services, Inc.

1049 Triad Court

Marietta, Georgia 30062

Garnishee (Name &amp; Address)

Case Number: 09-G-2607

Plaintiff's Attorney (Name, Address &amp; Phone Number)

Christina Craddock

Bovis, Kyle &amp; Burch, LLC

200 Ashford Center North, Suite 500

Atlanta, Georgia 30338-2668

Bar Number 192785

**AFFIDAVIT FOR GARNISHMENT**

Personally appeared Christina Craddock, who on oath says that he/she is (Attorney at Law for Plaintiff) (Plaintiff) herein, and that the above named Defendant, is indebted to said Plaintiff in the sum of:

1. \$ 128,892,128.15 Principal
2. \$ 1,755,051.84 Interest
3. \$ Attorney's Fees
4. \$ All Costs
5. \$ 130,647,179.99 Total

6. Judgment was obtained in US District Court of Southern District GA County Georgia on 5:07-cv-0038 is the case number.

7. Pursuant to O.C.G.A. 18-4-89, Plaintiff/Plaintiff's Attorney makes application for condemnation of any funds delivered to this Court by the Garnishee upon certification being filed with said clerk their proof of service to defendant of this proceeding.

Affiant states that no agreement has been made with the Defendant for payment of the judgment, or if an agreement was made, the defendant is in default and that Affiant has reason to apprehend the loss of said sum or some part thereof unless process of garnishment issues. Affiant has personal knowledge that debt is unpaid.

This 15<sup>th</sup> day of September, 2009.

Christina Craddock  
Affiant



Approved this 14 day of Sept, 2009.

Melody Bran  
Deputy Clerk, State Court of Cobb County

## IN THE STATE COURT OF COBB COUNTY

## STATE OF GEORGIA

Arch Insurance Company

One Liberty Plaza, 53rd Floor

New York, NY 10006

[Redacted] Name &amp; Address

Vs

Georgia Arthur Gang and Pat N. Peterson Attn: 816 2nd St. Decatur, GA 30334

Joel Spivey [12331 Hwy. 32W, Ambrose, GA 31512]

Kyle Spivey [770 Green Willow Dr., Douglas, GA 31535]

[Redacted] Name &amp; Address

Applied Technical Services, Inc.

1049 Triad Court

Marietta, Georgia 30062

[Redacted] Name &amp; Address

Case Number: 09-G-2607

Plaintiff's Attorney Name, Address &amp; Phone Number

Christina Craddock

Bovis, Kyle &amp; Burch, LLC

200 Ashford Center North, Suite 500

Atlanta, Georgia 30338-2668

Bar Number 192785

**AFFIDAVIT FOR GARNISHMENT**

I, the undersigned, Christina Craddock,

hereby swear that I am attorney for Plaintiff/Plaintiff herein and that the above named Defendant is indebted to said Plaintiff in the sum of:

, 128,892.128 45 Person(s)

, \$ 1,755.051 84 Interest

, \$ 0.00 Attorney's Fees

, \$ 0.00 All Costs

, \$ 130,647.179.99 Total

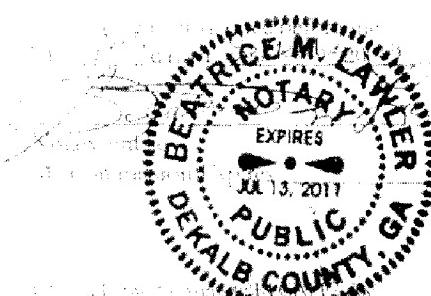
The judgment was obtained in US District Court of \_\_\_\_\_ County, \_\_\_\_\_, Case number: 5:07-cv-0038

Plaintiff No. 09-CV-14-89 Plaintiff/Plaintiff's Attorney makes application for confirmation of the funds garnished to this court by the Garnished upon verification being filed with said court their proof of service on defendant of this proceeding.

I further swear that my client has been made such information for payment of the judgment or if an agreement has been made to pay off the debt in full and that either just now or before and including some part thereof, prior to filing this affidavit has personal known Judge that debt is unpaid.

The 11<sup>th</sup> day of September, 2009Christina Craddock  
Attest

Approved the 14 day of Sept 2009

Melody Brumley  
Deputy Clerk, Cobb County Court

State Court **Attorney's Address**

Christina Franklin  
 Bowles, Kyle & Burch, LLC  
 200 Ashford Center North, Suite 500  
 Atlanta, Georgia 30339

GEORGIA, COBB COUNTY

Arch Insurance Company Plaintiff  
 vs.

**Name and Address of Party to be Served**

Applied Technical Services, Inc.  
 1100 Hills  
 1049 Triad Court  
 Marietta, GA 30062

Douglas Asphaug, Chairman, Inc.  
 and Kyle Spivay Defendant  
 Applied Technical Services, Inc.,  
 Garnishee

**SHERIFF'S ENTRY OF SERVICE**

PERSONAL

I have this day served \_\_\_\_\_ personally with a copy  
 of the within action and summons.

NOTORIOUS

I have this day served \_\_\_\_\_ by leaving  
 a copy of the action and summons at his most notorious place of abode in this County.  
 Delivered same into hands of \_\_\_\_\_ described as follows  
 age, about \_\_\_\_\_ years; weight, about \_\_\_\_\_ pounds; height, about \_\_\_\_\_ feet and \_\_\_\_\_ inches, domiciled  
 at the residence of defendant.

CORPORATION

Served APPLIED TECHNICAL SERVICES, INC., a corporation  
 by leaving a copy of the within action and summons with Dee Dee Brant,  
 in charge of the office and place of doing business of said Corporation in this County.

TACK &amp; MAIL

I have this day served the above affidavit and summons on the defendant(s)/Party by posting a copy of the same to the  
 door of the premises designated in said affidavit and on the same day of such posting by depositing a true copy of same  
 in the United States Mail, First Class in an envelope properly addressed to the defendant(s)/Party at the address shown in  
 said summons, with adequate postage affixed thereon containing notice to the defendant(s)/Party to answer said  
 summons at the place stated in the summons.

HONEST

Diligent search made and \_\_\_\_\_  
 not to be found in the jurisdiction of this Court.

**THE DEFENDANT/PARTY IS REQUIRED TO:**

answer a Proceeding Against Tenant Holding Over on or before the \_\_\_\_\_ day of \_\_\_\_\_  
 20 \_\_\_\_\_ at the hour and place stated in the summons.

This July day of 2009, 2009.

M. McFall 07003  
 DEPUTY

COBB COUNTY, GEORGIA

*1st Reissue*  
**STATE COURT OF COBB COUNTY**  
 Georgia, Cobb County

12 East Park Square

Marietta, Georgia 30090-9630

770-528-1218

Garnishment Proceeding

# 09-671007

Arch Insurance Company

Plaintiff

VS.

Douglas Asphalt Company, Joel Spivey and Kyle Spivey

Defendant

TO:

Applied Technical Services, Inc.

1049 Triad Court

Marietta, Georgia 30062

Garnishee

**SUMMONS OF GARNISHMENT**

YOU ARE HEREBY COMMANDED to immediately hold all property, money, wages, except what is exempt, belonging to the Defendant, or debts owed to the Defendant named above at the time of service of this summons and between the time of service of this summons and the time of making your answer. Not sooner than 30 days but not later than 45 days after you are served with this summons, you are commanded to file your answer in writing with the Clerk of this Court and serve a copy upon the plaintiff or his attorney named below. Money or other property subject to this Summons should be delivered to the Court with your answer. Should you fail to answer this summons; a judgment will be rendered against you for the amount the plaintiff claims due by the defendant. NOTE: Any corporate party served must be represented by a licensed attorney at law.  
 (See Eckles v. Atlanta Technology Group, 267 Ga. 801)

WITNESS the HONORABLE JUDGES of this Court,

This

Plaintiff or Plaintiff's Attorney:

Christina Craddock

Bovis, Kyle &amp; Burch, LLC

200 Ashford Center North, Suite 500

Atlanta, Georgia 30338-2668

Phone No. 770.381.9100

(SEE REVERSE SIDE FOR IMPORTANT INSTRUCTIONS)

Clerk, State Court of Cobb County

Principal \$ 126,892,128.15

Interest \$ 1,755,051.84

Atty. Fees \$

All Costs \$

TOTAL \$ 130,647,179.99

12 East Park Square  
Marietta, Georgia 30090-9630

770-528-1218

Garnishment Proceeding

#

**STATE COURT OF COBB COUNTY**  
Georgia, Cobb County

Arch Insurance Company

Plaintiff

VS

Douglas Asphalt Company, Joel Spivey and Kyle Spivey

Defendant

Applied Technical Services, Inc.

Garnishee

**ANSWER OF GARNISHMENT**

- At the time of service or from the time of service to the time of this answer, garnishee has in his possession the following described property of defendant:
- At the time of service or from the time of service to the time of this answer, all debt accruing from garnishee to defendant is in the amount of \$ \_\_\_\_\_
- \$ \_\_\_\_\_ of the amount named in paragraph 2, was wages earned at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_ for the period beginning \_\_\_\_\_, 20\_\_\_\_\_, through the time of making this answer. The amount of wages which is subject to the garnishment is computed as follows:

\$ \_\_\_\_\_ Gross Earnings

\$ \_\_\_\_\_ Total Social Security and withholding tax

\$ \_\_\_\_\_ Total Disposable Earnings

\$ \_\_\_\_\_ Amount of Wages subject to garnishment

\$ \_\_\_\_\_ Amount herewith paid into court

- Garnishee further states: \_\_\_\_\_

By: \_\_\_\_\_ Garnishee

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served plaintiff or his attorney in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Signed \_\_\_\_\_

Garnishee